

**Enrolled Minutes of the Twentieth Meeting
A Special Meeting of the Twenty-Sixth Highland Town Council
Monday, November 3, 2008**

Special Meeting. The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in its specially called session on Monday, November 03, 2008 at 7:00 O'clock P.M. in the special place, the upper study meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Town Council President Bernie Zemen presided and the Town Clerk-Treasurer was present to memorialize the proceedings.

The special session was opened with the Town Councilor Brian Novak leading the pledge of allegiance to the United States Flag and offering a prayer.

Roll Call: Councilors Bernie Zemen, Dan Vassar, Brian Novak and Konnie Kuiper were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained. Councilor Mark A. Herak arrived at 7:07 p.m., owing to a delay with his work.

Additional Officials Present: Rhett L. Tauber, Town Council Attorney; and John Bach, Public Works Director were present.

Special Orders:

1. *Action to ratify the calling of a Special meeting for November 3, 2008 at 7:00 p.m.* Councilor Kuiper moved to authorize, approve and ratify the holding of the present special meeting. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The meeting was ratified, pursuant to § 30.27(E) of the Municipal Code.
2. **Proposed Ordinance No. 1414.1403-A:** An Ordinance of the Town of Highland, Indiana, Amending Ordinance No. 1403, authorizing the issuance and sale of bonds of the Town for the purpose of providing funds to be used for the construction and reconstruction of certain road improvements, together with related and incidental expenses in connection therewith and on account of the issuance of the bonds therefore.

Councilor Vassar introduced and moved the consideration of Ordinance No. 1414.1403-A at the same meeting of its introduction. Councilor Kuiper seconded. Upon a roll call vote, a unanimous vote being necessary, there were four affirmatives and no negatives. The motion passed. The ordinance could be considered for action.

Councilor Novak moved the passage and adoption of Ordinance No. 1414.1403-A at the same meeting of its introduction. Councilor Vassar seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and no negatives. The motion passed. The ordinance was adopted.

ORDINANCE NO. 1414.1403-A

An Ordinance of the Town of Highland, Indiana, Amending Ordinance No. 1403, authorizing the issuance and sale of bonds of the Town for the purpose of providing funds to be used for the construction and reconstruction of certain road improvements, together with related and incidental expenses in connection therewith and on account of the issuance of the bonds therefor

WHEREAS, The Town of Highland ("Town") is authorized by IC 36-5-2-11 as in effect on the date of issuance of the bonds authorized herein ("Act") to issue bonds to procure moneys to be used in the exercise of the powers of the Town and for the payment of Town debts; and

WHEREAS, The Town Council of the Town ("Town Council") hereby determines to provide for the cost of the reconstruction of a portion of Kennedy Avenue, the construction of certain street repairs, the payment of construction engineering fees ("Project") and the incidental expenses in connection therewith and on account of the issuance of bonds therefor; and

WHEREAS, Based upon the advice of the Town's financial advisor, the Town Council has determined that the estimated cost, including incidental expenses incurred in connection with the Project and with the issuance of bonds to finance the Project, will be in an amount not to exceed One Million, Nine Hundred Thousand Dollars (\$1,900,000); and

WHEREAS, The Town finds that it has no funds on hand available to apply on the costs of the Project and that the entire cost should be financed with the issuance of general obligation bonds; and

WHEREAS, The Town Council finds that the total cost of the project will be less than \$2,000,000 and 1% of the gross assessed value of property within the Town and, therefore, the bonds will not be issued to fund a controlled project, as defined in IC 6-1.1-20-1.1; and

WHEREAS, It is necessary that the bonds be issued in an amount not to exceed \$1,900,000 to provide funds to pay such costs of the Project and the incidental expenses to be incurred in connection with the Project and with the issuance and sale of the bonds;

WHEREAS, The Town Council has been reliably advised that it is necessary to amend the Authorizing Ordinance No. 1403, in which Bonds of the Corporation were authorized for sale, in order to make a technical clarification regarding the date of the Bonds as issued; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HIGHLAND, INDIANA, as follows:

Section 1. That subdivision (c), of Section 1 of Ordinance No. 1403 be hereby repealed, and the ordinance be hereby amended by substituting a new subdivision identified as subdivision (c), which shall read as follows:

(c) The Bonds shall be sold at a price of not less than 98% of the par value thereof, and shall be issued in fully registered form in denominations of \$1,000 or integral multiples thereof, numbered consecutively from 1 upward, **dated October 28, 2008**, and shall bear interest at a rate or rates not exceeding seven percent (7%) per annum (the exact rate or rates to be determined by bidding), which interest shall be payable semiannually on February 1 and August 1 of each year, commencing on August 1, 2009. Interest on the Bonds shall be calculated according to a 360-day year containing twelve 30-day months. The Bonds shall mature, or shall be subject to mandatory sinking fund redemption if term bonds are issued, semiannually on February 1 and August 1 of each year with a final maturity no later than twenty years from the date of issuance, and in amounts which will produce as level annual principal payments as practicable with \$1,000 denominations during the years principal is paid.

All or a portion of the Bonds may be issued as one or more term bonds, upon election of the successful bidder. Such term bonds shall have a stated maturity or maturities of February 1 or August 1, on the dates as determined by the successful bidder, but in no event later than the last serial date of the Bonds as determined in accordance with the above paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at 100% of the principal amount thereof, plus accrued interest to the redemption date, on dates and in the amounts hereinafter determined in accordance with the above paragraph.

Section 2. Severability. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section 3. Repeal of Conflicting Provisions. All ordinances, or parts thereof, in conflict with the provisions of this ordinance, are, to the extent of such conflict, hereby repealed or amended.

Section 4. Amendments to Ordinance. This ordinance may, from time to time hereafter, be amended without the consent of the owners of the Bonds, if in the sole discretion of the Town Council, such amendment shall not adversely affect the rights of the owners of any of the Bonds.

Section 5. Effective Date. This ordinance shall be in full force and effect immediately upon its passage.

Introduced and Filed on the 3rd day of November 2008. Consideration on same day or at same meeting of introduction sustained a vote of 4 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 3rd Day of November 2008, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

/s/ Bernie Zemen, President (IC 36-5-2-10)

Attest:

/s/ Michael W. Griffin, IAMC/CMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

Councilor Herak arrived at this time and joined the meeting in progress.

3. **Works Board Order No. 2008-28:** An Order Acknowledging The Kennedy avenue Reconstruction Project and Authorizing and Approving An agreement between First Group, Incorporated and the Town of Highland to perform Construction Engineering and Professional services in support of thereof.

Councilor Vassar moved the passage and adoption of Works Board Order NO. 2008-28. Councilor Novak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

**The Town of Highland
Board of Works**

Order of the Works Board No. 2008-28

AN ORDER ACKNOWLEDGING THE KENNEDY AVENUE RECONSTRUCTION PROJECT AND AUTHORIZING AND APPROVING AN AGREEMENT BETWEEN FIRST GROUP, INCORPORATED AND THE TOWN OF HIGHLAND TO PERFORM CONSTRUCTION ENGINEERING AND PROFESSIONAL SERVICES IN SUPPORT OF THEREOF

Whereas, The Town of Highland, through its Town Council, which is the Works Board of the Municipality has heretofore determined that a need exists to improve and reconstruct a section of Kennedy Avenue that has its northern terminus at the Little Calumet River and its Southern terminus at Ridge Road, evidenced by the adoption of Works Board Order No. 2008-17 adopting an Local Participating Agreement with the Indiana Department of Transportation on 11 August 2008, which was necessary to access the Federal Highway Funding resources related to this project;

Whereas, The Town has heretofore determined that a need exists to engage professional construction engineering services associated with the Project in order to advance and implement the construction process associated with the Project; and

Whereas, First Group Engineering, Incorporated, (Consultant) has offered and presented an agreement to provide and furnish construction engineering and professional services detailed and specifically described in part as review of construction schedule for contract compliance, attend pre-construction conferences, serve as LPA Liaison with contractor, obtain field samples of materials, receive and review shop drawings, conduct inspections of contractors' work, related tasks outlined in the agreement in consideration for fees to be charged and billed monthly based upon a lump sum of the value of the services completed, in a total amount not to exceed *seven hundred thirty-four thousand, five hundred two dollars and eighty cents (\$734,502.80)*; and

Whereas, There are sufficient and available appropriations balances on hand to support the payments under the agreement, pursuant to IC 5-22-17-3(e); and

Whereas, There are expected to be sufficient and available appropriations balances on hand to support the payments under the agreement in future years pursuant to IC 5-22-17-3(e) and I.C. 5-16-11.1-5, subject to the laws governing same; and,

Whereas, The Town of Highland, through its Town Council acting as the Works Board now desires to accept and approve the agreement for services as herein described.

Now Therefore be it Ordered by the Town Council of the Town of Highland, Lake County, Indiana;

Section 1. That the Professional Engineering Agreement (incorporated by reference and made a part of this Order) between First Group Engineering, Incorporated, and the Town of Highland, for the **Kennedy Avenue Reconstruction Project**, that has its northern terminus at the Little Calumet River and its Southern terminus at Ridge Road, is hereby approved, adopted and ratified in each and every respect;

Section 2. That the terms and charges under the agreement and specifically described *in part* as review of construction schedule for contract compliance, attend pre-construction conferences, serve as LPA Liaison with contractor, obtain field samples of materials, receive and review shop drawings, conduct inspections of contractors' work, related tasks outlined in the agreement in consideration for fees to be charged and billed monthly based upon a lump sum of the value of the services completed, in a total amount not to exceed *seven hundred thirty-four thousand, five hundred two dollars and eighty cents (\$734,502.80)* are found to be reasonable and fair;

Section 3. That the Town of Highland, through its Town Council, believes that First Group Engineering, Incorporated has demonstrated professional competence and qualifications to perform the particular professional engineering services called for in the Agreement and associated Federal Aid project, pursuant to *I.C. 5-16-11.1-5 and Section § 31.64 of the Highland Municipal Code*;

Section 4. That the Town Council President as well as the members of the Town Council be authorized to execute the Agreement with their signatures as attested thereto by the Clerk-Treasurer, and approved as to legality and form by the Town Council Attorney.

Be it so Ordered.

DULY, PASSED, ADOPTED and ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 3rd day of November 2008 having passed by a vote of 5 in favor and 0 opposed.

**WORKS BOARD of the TOWN of
HIGHLAND, INDIANA**

/s/ Bernie Zemen, President (IC 36-5-2-10)

Attest:

/s/ Michael W. Griffin, **Clerk-Treasurer** (IC 33-16-4-1; IC 36-5-6-5)

Adjournment. There being no further business to come before the Town Council, Councilor Kuiper moved that the special meeting be adjourned. Councilor Vassar seconded. Upon a vote, *viva voce*, the motion passed. The special meeting of the Town Council of Monday, November 03, 2008 was adjourned at 7:10 O'clock p.m.

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer